



This document is scheduled to be published in the Federal Register on 08/30/2012 and available online at <http://federalregister.gov/a/2012-21362>, and on [FDsys.gov](http://FDsys.gov)

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

[OMB Control No. 9000-0035]

[Docket 2012-0076; Sequence 1]

**Federal Acquisition Regulation;**

**Submission for OMB Review; Claims and Appeals**

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for public comments regarding an extension to an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning claims and appeals. A notice was published in the Federal Register at 77 FR 18819, on March 28, 2012. One respondent submitted comments.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways

in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

**DATES:** Submit comments on or before **[Insert date 30 days after publication in the Federal Register.]**

**ADDRESSES:** Submit comments identified by **Information Collection 9000-0035, Claims and Appeals** by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment" that corresponds with "Information Collection 9000-0035, Claims and Appeals". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000-0035, Claims and Appeals" on your attached document.

- Fax: 202-501-4067.
- Mail: General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE, Washington, DC 20417. ATTN: Hada Flowers/IC 9000-0035, Claims and Appeals.

Instructions: Please submit comments only and cite Information Collection 9000-0035, Claims and Appeals, in all correspondence related to this collection. All comments received will be posted

without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Marissa Petrusek,  
Procurement Analyst, Federal Acquisition Policy Division, GSA,  
(202) 502-0136 or via email at [marissa.petrusek@gsa.gov](mailto:marissa.petrusek@gsa.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

It is the Government's policy to try to resolve all contractual issues by mutual agreement at the contracting officer's level without litigation. Reasonable efforts should be made to resolve controversies prior to submission of a contractor's claim. The Contract Disputes Act of 1978 (41 U.S.C. §7103) requires that claims exceeding \$100,000 must be accompanied by a certification that (1) the claim is made in good faith; (2) supporting data are accurate and complete; and (3) the amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable. The information, as required by FAR clause 52.233-1, Disputes, is used by a contracting officer to decide or resolve the claim. Contractors may appeal the contracting officer's decision by submitting written appeals to the appropriate officials.

## **B. Analysis of Public Comments.**

One respondent submitted public comments on the extension of the previously approved information collection. The analysis of the public comments is summarized as follows:

**Comment:** The respondent commented that the extension of the information collection would violate the fundamental purposes of the Paperwork Reduction Act because of the burden it puts on the entity submitting the information and the agency collecting the information.

**Response:** In accordance with the Paperwork Required Act (PRA), agencies can request an OMB approval of an existing information collection. The PRA requires that agencies use the Federal Register notice and comment process, to extend the OMB's approval, at least every three years. This extension, to a previously approved information collection, pertains to FAR 33.215, Contract Clauses and clause 52.233-1, Disputes. The purpose of this clause is to allow contractors to submit claims against the government when there is a disagreement of rights between the contractor and the contracting officer, during or after performance of a contract. The authority for this clause is provided in the Contract Disputes Act (CDA) of 1978, as amended, 41 U.S.C. §7101. While this is a mandatory contract clause, it provides the contractor a process and a forum to bring claims. Not granting this extension would consequently eliminate

a fundamental FAR clause that is required in accordance with the CDA and impair a contractor's rights.

**Comment:** The respondent commented that the agency did not accurately estimate the public burden challenging that the agency's methodology for calculating it is insufficient and inadequate and does not reflect the total burden. For this reason, the respondent provided that the agency should reassess the estimated total burden hours and revise the estimate upwards to be more accurate, as was done in FAR Case 2007-006. The same respondent also provided that the burden of compliance with the information collection requirement greatly exceeds the agency's estimate and outweighs any potential utility of the extension.

**Response:** Serious consideration is given, during the open comment period, to all comments received and adjustments are made to the paperwork burden estimate based on reasonable considerations provided by the public. This is evidenced, as the respondent notes, in FAR Case 2007-006 where an adjustment was made from the total preparation hours from three to 60. This change was made considering particularly the hours that would be required for review within the company, prior to release to the Government.

The burden is prepared taking into consideration the necessary criteria in OMB guidance for estimating the paperwork burden put on the entity submitting the information. For

example, consideration is given to an entity reviewing instructions; using technology to collect, process, and disclose information; adjusting existing practices to comply with requirements; searching data sources; completing and reviewing the response; and transmitting or disclosing information. The estimated burden hours for a collection are based on an average between the hours that a simple disclosure by a very small business might require and the much higher numbers that might be required for a very complex disclosure by a major corporation. Also, the estimated burden hours should only include projected hours for those actions which a company would not undertake in the normal course of business. Careful consideration went into assessing the estimated burden hours for this collection, and it is determined that an upward adjustment is not required at this time. However, at any point, members of the public may submit comments for further consideration, and are encouraged to provide data to support their request for an adjustment.

### **C. Annual Reporting Burden**

Respondents: 4,500.

Responses Per Respondent: 3.

Annual Responses: 13,500.

Hours Per Response: 1.

Total Burden Hours: 13,500.

**OBTAINING COPIES OF PROPOSALS:** Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street, NE, Washington, DC 20417, telephone (202) 501-4755. Please cite OMB Control No. 9000-0035, Claims and Appeals, in all correspondence.

Dated:

William Clark,  
Acting Director,  
Federal Acquisition Policy Division,  
Office of Governmentwide Acquisition Policy,  
Office of Acquisition Policy,  
Office of Governmentwide Policy.

[BILLING CODE 6820-EP]

[FR Doc. 2012-21362 Filed 08/29/2012 at 8:45 am; Publication  
Date: 08/30/2012]